

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

ANDREA WIMMER, and AARON  
LANDHERR,

Plaintiffs,

vs.

CITY OF ST. CHARLES, JASON  
FRANKLIN, MICHAEL TIEMANN, and  
JOHN DOES #1-3,

Defendants.

Cause No.: 4:21-cv-01126

**CONSENT MOTION FOR APPROVAL OF  
SETTLEMENT AND APPORTIONMENT**

COME NOW, Plaintiffs Andrea Wimmer and Aaron Landherr, and with the consent and agreement of Defendants and Intervenor, ask that the attached Order and Judgment be entered in this matter, approving the settlement reached by and among the parties, and the apportionment thereof. In support of their Motion, Plaintiffs state as follows:

1. Plaintiffs Andrea Wimmer and Aaron Landherr<sup>1</sup> filed their Complaint in the instant action on September 15, 2021. [Doc. 1.]

2. Plaintiffs' complaint alleged various counts under federal law and the Missouri Wrongful Death Statute against Defendants City of St. Charles, Missouri, Jason Franklin, and Michael Tiemann, as well as unnamed "John Doe" defendants 1 – 3, related to the death of Joshua Landherr (hereinafter "Decedent") on September 16, 2020. Plaintiffs' Decedent suffered

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<sup>1</sup> Plaintiff Aaron Landherr's full legal name is Aaron Landherr Francis, however, he was improperly identified as Aaron Landherr in the Complaint.  
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a drug overdose while an inmate in the City of St. Charles Jail. Decedent was transported to the hospital by EMS in the early morning hours of September 16, 2020, where he passed away.

3. Plaintiff Andrea Wimmer was the biological mother of the Decedent.

4. Plaintiff Aaron Landherr Francis was the biological son and only child of the Decedent.

5. Decedent was also survived by Intervenor, Amanda Fry, who was the Decedent's estranged wife. Ms. Fry filed her Motion to Intervene on March 31, 2022. [Doc. 33.]

6. Defendants filed Answers to Plaintiffs' Complaint denying any and all liability for Decedent's death. [Docs. 16-18.] Defendants continue to deny liability for Decedent's death.

7. On February 24, 2022, Plaintiffs and Defendants participated in mediation at USA&M, with neutral Michael Geigerman. After approximately 10 hours of negotiation, Plaintiffs and Defendants reached a confidential settlement wherein Defendants agreed to pay the sum of One Million Five-Hundred Thousand Dollars in exchange for a full and final release of all claims. Due to the nature of the claims, court approval is necessary to finalize the settlement.

8. Following mediation, Plaintiffs and Intervenor reached an agreement as to the apportionment of the total settlement sum as follows:

- a) The sum of Fifty Thousand dollars and 00/100 (\$50,000.00) shall be paid to Intervenor Amanda Fry, made payable to the firm of Donner Applewhite.
- b) The sum of Two Hundred Thirty-Six Thousand One Hundred and Sixty-Seven dollars and 75/100 (\$236,167.75), made payable to Plaintiff Andrea Landherr.
- c) The sum of Seven Hundred and Eight Thousand Five Hundred and Three dollars and 25/100 (\$708,503.25), made payable to Aaron Landherr Francis; and
- d) The sum of Five Hundred and Five Thousand Three Hundred and Twenty-Nine dollars and 00/100 (\$505,329.00), made payable to The Schindler Law Firm, P.C.

9. On April 19, 2022, the parties appeared by counsel before this court seeking approval of the settlement and apportionment. [Doc. 36.] Plaintiff Andrea Wimmer appeared personally.

10. Plaintiff Andrea Wimmer testified to the settlement reached by the parties, that she believed the settlement to be fair and reasonable; that she understood that by entering into a settlement she was waiving her right to have the matter heard by a jury; that she was afforded the opportunity to discuss and be advised by her counsel; that she believes the apportionment set forth above is fair and reasonable; and that she, Plaintiff Aaron Landherr Francis, and Intervenor Amanda Fry are the only heirs from Class 1 of the Missouri Wrongful Death Statute known to her. Plaintiff Wimmer requested this honorable court approve the settlement and apportionment.

11. Plaintiffs' counsel presented the court with an affidavit executed by Plaintiff Aaron Landherr Francis attesting in accordance with the testimony of Plaintiff Wimmer that he believes the settlement and apportionment to be fair and reasonable. (*See* Affidavit of Aaron Landherr Francis attached hereto as Exhibit A.)

12. Counsel for Intervenor presented the court with an affidavit executed by Intervenor Amanda Fry attesting in accordance with the testimony of Plaintiff Wimmer that she believes the settlement and apportionment to be fair and reasonable. (*See* Affidavit of Amanda Fry attached hereto as Exhibit B.)

13. The court heard argument from Plaintiffs' counsel and counsel for the City of St. Charles regarding the parties' desire to have the settlement and apportionment approved. Counsel for Defendants Tiemann and Franklin were present, and all parties and counsel requested the Court approve settlement and apportionment.

WHEREFORE Plaintiffs Andrea Wimmer and Aaron Landherr Francis, with consent of Defendants City of St. Charles, Missouri, Jason Franklin, and Michael Tiemann, and Intervenor Amanda Fry, respectfully request this honorable court enter its judgment approving settlement of this case and apportionment as set forth above, each party to bear its own costs and attorneys' fees, and for such other and further relief as this court deems just and proper under the circumstances.

Respectfully submitted,

THE SCHINDLER LAW FIRM, P.C.

/s/ Joshua M. Schindler

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